



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

CORPUS CHRISTI MEDICAL CENTER
C/O HOLLOWAY & GUMBERT
3701 KIRBY DRIVE STE 1288
HOUSTON TX 77098-3926

Carrier's Austin Representative Box

#01

MFDR Date Received

FEBRUARY 9, 2009

Respondent Name

LIBERTY INSURANCE CORP

MFDR Tracking Number

M4-09-6007-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated February 6, 2009: "...the Provider billed its usual and customary charges for the services rendered in this claim...The claim presented by the Provider was billed in the same manner and at the same rates that it would bill any health plan, insurer, or other medical bill payor...Per Rule 134.401(c)(6)(A)(i)(iii), once the bill has reached the minimum stop-loss threshold of \$40K, the entire admission will be paid using the stop-loss reimbursement factor ('SLRF') of 75%...the fees paid by the Carrier do not conform to the reimbursement section of Rule 134.401...it is the position of the Provider that all charges relating to the admission of this claimant are due and payable and not subject to the improper reductions taken by the carrier in this case."

Amount in Dispute: \$59,165.72

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated February 27, 2009: "We base our payments on the Texas Fee Guidelines and the Texas Workers' Compensation Commission Acts and Rules...The bill and documentation attached to the medical dispute has been re-reviewed and our position remains unchanged...These services have been reimbursed based upon review and appropriate application of the three-tiered service/related standard per diem amount under 28 TAC Section 134.401(c)...After review of the provider's Request for Reconsideration and the accompanying medical records, there is no evidence that there is anything particularly 'unusually costly or extensive' about this hospital admission...The length of stay of this particular admission at four days is average for this DRG as documented within the DRG Guide, further reflective of the fact that this was a straightforward, uncomplicated hospitalization. Liberty Mutual believes that Corpus Christi Medical Center has been appropriately reimbursed for services rendered."

Response Submitted by: Liberty Mutual Insurance Co.

Respondent's Supplemental Position Summary Dated February 12, 2013: "Requestor has failed to meet the Austin Third Court of Appeals' mandate that, to qualify for reimbursement under the Stop-Loss Exception ...a hospital must demonstrate two things: the services it provided during the admission were unusually costly and unusually extensive, and its total audited charges exceeded \$40,000...Because Requestor has not met its burden of demonstrating unusually extensive services, and the documentation adduced thus far fails to provide any

rationale for the Requestor's qualification for payment under the Stop-Loss Exception, Respondent appropriately issued payment per the standard Texas surgical per diem rate. No additional monies are due to the Requestor."

Response Submitted by: Hanna & Plaut LLP

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
February 14, 2008 through February 19, 2008	Inpatient Hospital Services	\$59,165.72	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 Texas Register 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital for the date of admission in dispute.
 - Effective July 13, 2008, the Division's rule at former 28 Texas Administrative Code § 134.401 was repealed. The repeal adoption preamble specified, in pertinent part: "Section 134.401 will continue to apply to reimbursements related to admissions prior to March 1, 2008." 33 Texas Register 5319, 5220 (July 4, 2008).
 - Former 28 Texas Administrative Code § 134.401(a)(1) specified, in pertinent part: "This guidelines shall become effective August 1, 1997. The Acute Care Inpatient Hospital Fee Guideline (ACIHFG) is applicable for all reasonable and medically necessary medical and/or surgical inpatient services rendered after the Effective Date of this rule in an acute care hospital to injured workers under the Texas Workers' Compensation Act." 22 Texas Register 6264, 6306 (July 4, 1997).
3. 28 Texas Administrative Code §134.600, 31 *Texas Register* 3566, effective May 2, 2006, requires concurrent preauthorization for an extension of previously approved inpatient hospital stay.
4. 28 Texas Administrative Code §134.1, 33 *Texas Register* 428, effective January 17, 2008, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- 42 – Charges Exceed Our Fee Schedule Or Maximum Allowable Amount.
- Z710 – The Charge For This Procedure Exceeds The Fee Schedule Allowance.
- 24 – Payment For Charges Adjusted. Charges Are Covered Under A Capitation Agreement/Managed Care Plan.
- P303 – This Service Was Reviewed In Accordance With Your Contract.
- Z695 – The Charges For This Hospitalization Have Been Reduced Based On The Fee Schedule Allowance.
- 62 – Payment Denied/Reduced For Absence Of, Or Exceeded, Pre-Certification/Authorization.
- X170 – Pre-Authorization Was Required, But Not Requested For This Service Per DWC Rule 134.600.
- Z612 – This Bill Was Reviewed In Accordance With Your Contract With First Health. For Questions Regarding Your Contract, Please Call (800) 937-6824. This Reimbursement May Reflect Payment At Rates Less Than Your Discounted Contract Rate In Accordance With Our PPO Network Contract And Our Access Agreement With Them.
- Z989 – The Amount Paid Previously Was Less Than Is Due. The Current Recommended Amount Is The Result Of Supplemental Payment.

Issues

1. Does a preauthorization issue exist in this dispute?
2. Did the audited charges exceed \$40,000.00?

3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The supplemental information was shared among the parties as appropriate. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. According to the explanation of benefits, the respondent denied reimbursement for date of service February 18, 2008 through February 19, 2008 based upon reason codes “62 and X170.”

28 Texas Administrative Code §134.600(q)(1) states “The health care requiring concurrent review for an extension for previously approved services includes: inpatient length of stay.”

A review of the submitted documentation does not support that preauthorization was obtained for the additional inpatient hospital day; therefore a preauthorization issue does exist in this dispute.
2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “Audited charges are those charges which remain after a bill review by the insurance carrier has been performed.” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$118,065.75. The division concludes that the total audited charges exceed \$40,000.
3. The requestor in its position statement presumes that it is entitled to the stop loss method of payment because the audited charges exceed \$40,000. As noted above, the Third Court of Appeals in its November 13, 2008 opinion rendered judgment to the contrary. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services.” The requestor failed to demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 Texas Administrative Code §134.401(c)(6).
4. In regards to whether the services were unusually costly, the requestor presumes that because the bill exceeds \$40,000, the stop loss method of payment should apply. The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The requestor failed to demonstrate that the particulars of the admission in dispute constitutes unusually costly services; therefore, the division finds that the requestor failed to meet 28 Texas Administrative Code §134.401(c)(6).
5. 28 Texas Administrative Code §134.401(b)(2)(A) titled General Information states, in pertinent part, that “The basic reimbursement for acute care hospital inpatient services rendered shall be the lesser of:

- (i) a rate for workers' compensation cases pre-negotiated between the carrier and the hospital;
- (ii) the hospital's usual and customary charges; and
- (iii) reimbursement as set out in section (c) of this section for that admission

In regards to a pre-negotiated rate, the services in dispute were reduced in part with the explanation "This Bill Was Reviewed In Accordance With Your Contract With First Health." No documentation was provided to support that a reimbursement rate was negotiated between the workers' compensation insurance carrier Liberty Insurance Co. and Corpus Christi Medical Center prior to the services being rendered; therefore 28 Texas Administrative Code §134.401(b)(2)(A)(i) does not apply.

In regards to the hospital's usual and customary charges in this case, review of the medical bill finds that the health care provider's usual and customary charges equal \$118,065.75.

In regards to reimbursement set out in (c), the division determined that the requestor failed to support that the services in dispute are eligible for the stop-loss method of reimbursement; therefore 28 Texas Administrative Code §134.401(c)(1), titled Standard Per Diem Amount, and §134.401(c)(4), titled Additional Reimbursements, apply. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.

- Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission." The length of stay was five days; however, documentation supports that the Carrier pre-authorized a length of stay of four days in accordance with 28 Texas Administrative Code Rule §134.600. Consequently, the per diem rate allowed is \$4,472.00 for the four authorized days.
- 28 Texas Administrative Code §134.401(c)(4)(A), states "When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274)." Review of the requestor's medical bill finds that the following items were billed under revenue code 278 and are therefore eligible for separate payment under §134.401(c)(4)(A):
- A review of the submitted copies of invoices finds that two were not legible and another was for a different patient. The Division finds the total allowable for the implants billed under revenue code 278 is:

Description of Implant per Itemized Statement	Quantity	Cost Per Unit	Cost + 10%
Rod 70MM	2	No support for cost/invoice	\$0.00
Allograft Back	2	No support for cost/invoice	\$0.00
30cc Bone Chips	3	\$710.00	\$2,343.00
Surgicel 2x14"	1	No support for cost/invoice	\$0.00
Screw Pedical 6.5 x 45	6	No support for cost/invoice	\$0.00
Spacer Verte 13MM Ant	1	\$2,125.00	\$2,337.50
Blocker	6	No support for cost/invoice	\$0.00
TOTAL			\$4,680.50

- 28 Texas Administrative Code §134.401(c)(4)(C) states "Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." A review of the submitted itemized statement finds that the requestor billed \$629.00/unit for Vancocin 1000MG. The requestor did not submit documentation to support what the cost to the hospital was for these items billed under revenue code 250. For that reason, additional reimbursement for these items cannot be recommended.

The total reimbursement set out in the applicable portions of (c) results in \$4,472.00 + \$4,680.50, for a total of \$9,152.50.

Reimbursement for the services in dispute is therefore determined by the lesser of:

§134.401(b)(2)(A)	Finding
(i)	Not Applicable
(ii)	\$118,065.75
(iii)	\$9,152.50

The division concludes that application of the standard per diem amount and the additional reimbursements under §134.401(c)(4) represents the lesser of the three considerations. The respondent issued payment in the amount of \$20,528.66. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

For the reasons stated above, the division concludes that the services in dispute are not eligible for the stop-loss method of reimbursement, that a pre-negotiated rate does not apply, and that application of 28 Texas Administrative Code §134.401(c)(1), titled *Standard Per Diem Amount*, and §134.401(c)(4), titled *Additional Reimbursements*, results in the total allowable reimbursement. Based upon the documentation submitted, the requestor's Table of Disputed Services, and reimbursement made by the respondent, the amount ordered is \$0.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	_____ 05/23/2013 Date
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_____ Signature	_____ Medical Fee Dispute Resolution Manager	_____ 05/23/2013 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a *certificate of service* demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.